

ENTERED

September 12, 2016

David J. Bradley, Clerk

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

DAVID J THOMAS JR,

Plaintiff,

VS.

HARRIS COUNTY, TEXAS,

Defendant.

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CIVIL ACTION NO. 4:16-CV-2121

ORDER

Plaintiff David J. Thomas, Jr. filed a *pro se* civil rights complaint on July 13, 2016. On August 2, 2016, this Court issued a notice of deficient pleading, noting that Thomas failed to pay the filing fee or move for leave to proceed *in forma pauperis*. Thomas was ordered to so move or pay the filing fee by September 1, 2016. The order specifically warned Thomas that failure to comply could result in dismissal for failure to prosecute.

The Clerk's office has made two attempts to serve the notice of deficient pleading on Thomas by United States mail. Both mailings have been returned to the Clerk's office with a notation that Thomas has been released from custody and the mail could not be forwarded. Thomas has not advised the Court of his change of address.

A district court may *sua sponte* dismiss a lawsuit for failure to prosecute pursuant to Federal Rule of Civil Procedure 41(b). *Berry v. CIGNA/RSI-CIGNA*, 975 F.2d 1188, 1190 (5th Cir.1992). "This authority is based on the 'courts' power to manage and administer their own affairs to ensure the orderly and expeditious disposition of cases.'" *Id.* at 1190–91 (quoting *Link v. Wabash R.R. Co.*, 370 U.S. 626, 630–31 (1962)).

Plaintiff's failure to notify the Court of his change of address forces the Court to conclude that he lacks diligence in prosecuting this action. Therefore, under the Court's inherent

power to manage its docket, this Court concludes that dismissal for want of prosecution is appropriate. The plaintiff is advised, however, that relief from this order may be obtained under Federal Rule of Civil Procedure 60(b) upon a proper showing. Accordingly, it is ORDERED that this action is DISMISSED WITHOUT PREJUDICE for want of prosecution.

The clerk shall provide a copy of this Order to the parties.

SIGNED on this 12th day of September, 2016.

A handwritten signature in black ink, appearing to read "Kenneth M. Hoyt", written over a horizontal line.

Kenneth M. Hoyt
United States District Judge